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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,864	11/19/2001	Cheng-Ku Chen	67,200-600	4851
759	90 07/07/2004		EXAM	INER
TUNG & ASSOCIATES			PHAM, LONG	
Suite 120 838 W. Long Lake Road Bloomfield Hills, MI 48302			ART UNIT	PAPER NUMBER
			2814	
		DATE MAILED: 07/07/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Exercision of time may be available under the previous of 3° CFR 1.13(a). In no event, however, may a reply be timely liked to the province of 3° CFR 1.13(a). In no event, however, may a reply be timely liked in the period for reply specified above is less from 15° CFR 1.13(a). In no event, however, may a reply be timely liked in the period for reply specified above is less from 15° CFR 1.13(a). In the period for reply specified above is less from 15° CFR 1.70(a).  If the period for reply specified above is less from 15° CFR 1.70(b).  Palma by sply white his device is search and the period of the		Application No.	Applicant(s)					
Long Pham   2814   Professional Content of this communication appears on the cover sheet with the correspondence address   Period for Reply	Office Action Comments	09/996,864	CHEN ET AL.					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Estemans of the may be switched used the provisions of 3° CFR 1.136(a). In or event, however, may a reply be timely filled the period for mayby specified above the less than 1 this (10) days, a reply vibin the statisfulary minimum of their (30) days, a value to considered timely.  If the period for mayby specified above is less than 1 this (10) days, a reply vibin the statisfulary minimum of their (30) days, a value to considered timely.  If the period for mayby specified above is less than 1 this (10) days, a reply vibin the statisfulary minimum of their (30) days will be considered timely.  If the period to reply specified above is less than 1 this (10) days, a reply vibin the statisfulary minimum of their (30) days will be considered timely.  If the period tray is specified above is less than 1 this (30) days are reply and integers (30) Monthly fill days are replected and a contract of the communication.  The Responsive to communication(s) filled on	Office Action Summary	Examiner	Art Unit	m				
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be validate under the provisions of 3° CFR 1.13(4). In no event, however, may a reply be timely filed after SX (5) MCNT-15 more the mailing date of this communication.  Fallwork of the may be a validate under the provision of 3° CFR 1.13(4).  If No period or reply is appelled above, the mainterine atteitory period without the statutory minimum of time; (20) along will be considered filmely.  If No period or reply is appelled above, the mainterine atteitory benefit without the provision of the communication.  Fallwork or reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than there mornial after the mailing date of this communication. Parameterist term adjustment. See 3° CFR 1.724(5)  Status  1) Responsive to communication(s) filed on	The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the o	correspondence ad	ldress				
1) ☐ Responsive to communication(s) filed on  2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☐ Claim(s)	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period w</li> <li>Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing</li> </ul>	66(a). In no event, however, may a reply be tire within the statutory minimum of thirty (30) day fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed  vs will be considered timel the mailing date of this c ED (35 U.S.C. § 133).					
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## **DETAILED ACTION**

## Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 2. Claims 1, 3, and 4-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Aminpur et al. (US '726).

With respect to claim 1, Aminpur et al. teaches a semiconductor device where during fabrication the semiconductor device comprises:

a primary layer 515 having a desired or specification or design dimension, fig. 5;

a lower layer 540 over the primary layer, fig. 5;

an upper layer 550 over the lower layer, the upper layer having a highetching selectivity as compared to the lower layer and the upper layer and lower layer have substantially identical width, fig.5 and col. 6, lines 53-55; and

an etching-stop layer 510 between the lower layer and primary layer, fig. 8 and associated text (that is during the formation of the gate 815).

Note that the process limitations in device claim 1 are given no weight in the patentability determination unless they produce some structural or material differences.

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With respect to claim 3, Aminpur et al. further teach the primary layer comprises of a polysilicon layer. See col. 5, lines 10-15.

With respect to claims 4-7, Aminpur et al. further teach the lower and upper layers are made of Si<sub>3</sub>N<sub>4</sub>, SiON, or SiO<sub>2</sub>. See col. 5, lines 40-50.

3. Claims 17, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Aminpur et al. (US '726).

With respect to claim 17, Aminpur et al. teaches a semiconductor device comprises:

a primary layer 515 having a desired or specification or design dimension, fig. 5;

a lower layer 540 over the primary layer, fig. 5;

an upper layer 550 over the lower layer, the upper layer having a highetching selectivity as compared to the lower layer and the upper layer and lower layer have substantially identical width, fig.5 and col. 6, lines 53-55; and

an etching-stop layer 510 between the lower layer and primary layer, fig. 8 and associated text (that is during the formation of the gate 815).

Note that the process limitations in device claim 17 are given no weight in the patentability determination unless they produce some structural or material differences.

With respect to claims 19-20, Aminpur et al. further teach the lower and upper layers are made of Si<sub>3</sub>N<sub>4</sub>, SiON, or SiO<sub>2</sub>. See col. 5, lines 40-50.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Long Pham whose telephone number is 571-272-1714. The examiner can normally be reached on M-F, 7:30AM-3:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on 571-272-1705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Łong Pham

Primary Examiner

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